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ORIGINALLY FILED

Docket No. 49592 (71878)

1624
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Williams, et al.

U.S.S.N.: 09/506,362

EXAMINER: J. Ford

FILED: September 15, 1998

GROUP:

FOR: APOPTOSIS-INDUCING COMPOUNDS

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Assistant Commissioner for Patents
Washington, D.C. 20231

Attention: Director of Group 1624

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on **February 4, 2002**.

By:

Edward J. Adamson

PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT
UNDER 37 C.F.R. 1.181

Sir:

This is a Petition under Rule 1.181 for withdrawal of the Examiner's holding of abandonment in the above captioned matter on the grounds or basis that a response to the below described Office communication from the U.S. Patent and Trademark Office (USPTO) forming the basis of the abandonment (i.e., Failure to respond to the Office letter, mailed April 18, 2001) was filed by Applicants' representative in the U.S. Patent and Trademark Office (USPTO) on October 18, 2001.

STATEMENT OF FACTS

1. A Notice of Abandonment was received by the undersigned Attorney on December 4, 2001. The Notice of Abandonment indicated that the application was abandoned in view of "Applicant's failure to file a timely reply to the Office letter mailed on April 18, 2001." A copy of the Notice of Abandonment is enclosed herewith.

2. I hereby state that a response to the Office letter mailed April 18, 2001 was mailed to the U.S. Patent and Trademark Office (USPTO) on October 18, 2001, with a Certificate of Mailing dated October 18, 2001, copies of which are enclosed herewith.

3. I hereby state that a search of the file jacket for the subject application in the offices of Dike, Bronstein, Roberts & Cushman Intellectual Property Group of Edwards & Angell, LLP includes a postcard indicating receipt by the U.S. Patent and Trademark Office (USPTO) on January 7, 2002, of the response to the Office communication. A copy of the postcard receipt also is enclosed herewith.

4. The USPTO issued a notice with regard to the "Processing of, and Requirements for, the Filing of Duplicate Applications and Papers in Patent Applications in view of USPS Mail Delays" (<http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/mailedelays.htm>) acknowledging mail delays and that the USPTO will process a reply (whose delivery to the Office has been delayed) as timely if the date on the certificate of mailing is within the period for reply set forth in the prior Office action or notice.

RELIEF REQUESTED

Applicants respectfully request the Commissioner, based on the following arguments and the foregoing facts and statements, to withdraw the holding of abandonment and to reconsider the Amendment that was mailed on October 18, 2001, and received by the USPTO on January 7, 2002.

ARGUMENT

The within petition and the related enclosures are being filed within two (2) months of the mailing date of the Notice of Abandonment. Accordingly, the within petition is considered to be timely filed [37 C.F.R. 1.181(f)].

In the instant case, Applicants have included the required statements by the practitioner¹, which establish timely filing of a response to the Office letter dated April 18, 2001, as well as any other documents mailed therewith.

In sum, Applicants did file a response to the Office letter dated April 18, 2001, within the statutory time period that formed the basis of the abandonment of the subject application. Thus, the abandonment of the subject application appears to be a result of delay by the United States Postal Service.

REQUIRED FEE

There is no fee required for the submission of a Petition under Rule 181. Moreover, a fee is not believed to be required for the consideration of the within Petition because the petition addresses an error of the Patent Office. However, if for any reason a fee is required for consideration of the within Petition, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105.

ADDITIONAL INFORMATION

If the USPTO requires any further information and/or clarification regarding the above, then Applicants respectfully request that the undersigned be telephoned immediately at the below listed number.

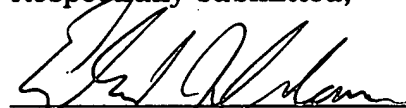
¹ See Statement of Facts, paragraphs 2-3.

ALTERNATIVE PLEADING

In the event that the USPTO considers that the within Petition is not proper and/or that a Petition under 37 C.F.R. § 1.137 should have been filed by Applicants requesting revival of the subject application, then the within Petition shall also be considered a conditional petition under 37 C.F.R. § 1.137(a) requesting revival of an application because of an unavoidable delay based on the foregoing facts and arguments. If such a Petition is required, then the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105 for the required fee [37 C.F.R. 1.17(l)].

Date: February 4, 2002

Respectfully submitted,



Edward J. Adamson
(Reg. No. P-50,927)
Dike, Bronstein, Roberts & Cushman
Intellectual Property Practice Group
Edwards & Angell, LLP
101 Federal Street
Boston, MA 02110-1800
Tel: (617) 439-4444
Fax: (617) 439-4170